

Message Text

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FM AMEMBASSY MOSCOW

TO SECSTATE WASHDC IMMEDIATE 974

S E C R E T MOSCOW 3602

EXDIS

E.O. 11652: XGDS-3

TAGS: PARM, US, UR

SUBJECT: TTBT/PNE NEGOTIATIONS: LEGAL ISSUES

TTBT/PNE DELEGATION MESSAGE NO. 113

1. WE APPRECIATE USEFUL SUGGESTIONS CONTAINED IN STATE 56706, WHICH WE HAVE DRAWN UPON IN FURTHER DISCUSSIONS WITH LAPTEV AND TIMERBAEV.

2. CONCERNING ARTICLE XIV(2), WE PROPOSED SEVERAL FORMULATIONS PRIVATELY TO TIMERBAEV, INCLUDING THAT CONTAINED IN PARA 3 OF STATE 56706. AFTER SOME DISCUSSION, TIMERBAEV INDICATED HE COULD ACCEPT "INFORMATION IN WHICH THE PARTY CARRYING OUT THE EXPLOSION HAS RIGHTS WHICH ARE REFERRED TO ... FOR REASONS INDICATED IN MOSCOW 3455, HE DID NOT WANT LANGUAGE WHICH DELVED FURTHER INTO SUBSTANCE OF PROPRIETARY RIGHTS OR EVEN REPEATED THAT PHRASE.

3. WE INFORMED SOVIETS OF OUR INTENTION TO MAKE INTERPRETIVE STATEMENT ON ARCHIVES AND DOCUMENTS IN ACCORDANCE WITH PARA 4 OF STATE 56706. SOVIETS SAID THEY COULD AGREE WITH SUBSTANCE, BUT LAPTEV SAID AN EMENDATION SHOULD BE INTEGRATED INTO PROTOCOL TEXT RATHER THAN HAVE INTERPRETIVE STATEMENTS "HIDDEN" IN NEGOTIATING RECORD. IF WE PREPARED TO DO THIS, IT APPEARS THAT SOVIETS MIGHT AGREE TO AMENDMENT OF CURRENT TEXT GENERALLY ALONG

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FOLLOWING LINES: "INVIOABILITY AT ALL TIMES AND WHEREVER

THEY MAY BE OF ARCHIVES AND DOCUMENTS REQUIRED BY DESIGNATED PERSONNEL FOR CARRYING OUT THEIR OFFICIAL FUNCTIONS."

4. CONCERNING TEXT OF LATTER PART OF ARTICLE XII AS CONTAINED IN PARA 4 OF MOSCOW 3455, LAPTEV ASKED US TO AMEND FINAL SENTENCE OF PARA (F) TO READ: "EXCEPT FOR THE ABOVE, THE PROPOERTY OF DESIGNATED PERSONNEL SHALL BE INVIOABLE." WE AGREED. TEXT IS OTHERWISE ACCEPTABLE TO SOVIETS. AT END OF MEETING LAPTEV SAID US DID NOT SEEM TO WANT TO COMPROMISE ON OTHER ISSUES. THEREFORE, HE FELT OBLIGED TO RESERVE ON THIS POINT PENDING SUCCESSFUL SOLUTION OF OTHER ISSUES.

5. CONCERNING VEHICLES, WE PROPOSED LANGUAGE CONTAINED IN PARA 2 OF STATE 56706. AS USUAL, LAPTEV OBJECTED TO ALMOST ALL OF THE LANGUAGE IN THIS TEXT. HE SAID:
(A) "LIABILITY INSURANCE" NOT CLEAR AND IT IS IMPORTANT TO REFER TO "INSURANCE AND INDEMNIFICATION"; (B) PHRASE "COVERAGE AND LIMITS OF LIABILITY" NOT TRANSLATABLE INTO RUSSIAN (EVEN THOUGH SOVIET INTERPRETER AT TABLE TRANSLATED IT CORRECTLY AND WITHOUT EVIDENT DIFFICULTY), AND WE SHOULD NOT LIMIT APPLICATION OF INSURANCE LAWS TO ONLY THESE ASPECTS; (C) INSTEAD OF "STANDARDS" ONE SHOULD REFER TO "LAWS AND REGULATIONS"; (D) REFERENCE TO "COMMUNITY" NOT APPROPRIATE (HE SAID IT COULD MEAN THE ETHNIC GROUPS OF NEW YORK), AND ONE SHOULD REFER INSTEAD TO "THE COUNTRY" IN WHICH THE VEHICLE IS TO BE OPERATED. WE ATTEMPTED EITHER TO ACCOMMODATE OR REBUT EACH OF THESE POINTS, AS APPROPRIATE, BUT LAPTEV WAS NOT IN A NEGOTIATING MOOD: NOR WAS HE WILLING (IF ABLE) TO PROVIDE ANY OBJECTIVE RATIONALE FOR HIS COMMENTS. LAPTEV PREFERS FOLLOWING TEXT AND WAS NOT PREPARED, AT LEAST AT THIS POINT, TO ACCOMMODATE THE DIFFERENCES:
". . .NOR SHALL THEY OWN OR OPERATE ANY VEHICLE IN THAT TERRITORY EXCEPT UNDER THE CONDITION THAT INSURANCE OR INDEMNIFICATION FOR DAMAGES ARISING OUT OF AN ACCIDENT WHICH MIGHT BE CAUSED BY SUCH VEHICLE, SHALL BE GOVERNED BY THE LAWS AND REGULATIONS OF THAT PARTY."

6. ONLY OTHER OUTSTANDING ISSUE IS FORMULATION FOR
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PROFESSIONAL AND COMMERCIL ACTIVITIES. LAPTEV IS STILL INSISTENT THAT LANGUAGE "FOR PERSONAL PROFIT" BE DELETED.

7. DURING THESE DISCUSSIONS TIMERBAEV PRIVATELY SUGGESTED POSSIBILITY OF REPLACING ENTIRE ARTICLE WITH PROVISION GRANTING DESIGNATED PERSONNEL THE SAME PRIVILEGES AND IMMUNITIES AS DIPLOMATIC AGENTS ENJOY UNDER INTERNATIONAL LAW. WE SAID WE WOULD THINK ABOUT

IT.

8. MATHESON WILL ARRIVE IN WASHINGTON ON MARCH 11. HE
WILL BE PREPARED TO DISCUSS PNE LEGAL ISSUES MARCH 12 IN
ORDER TO DEVELOP FURTHER GUIDANCE.
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